

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Michael Moore,) Case No. 9:23-cv-04665-DCC-MHC
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Plaintiff,)
)
)
v.) **ORDER**
)
)
Warden James and United States of)
America,)
)
)
Defendants.)
)

This matter is before the Court upon Plaintiff's allegations that his civil rights have been violated. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Molly H. Cherry for pre-trial proceedings and a Report and Recommendation ("Report"). On June 27, 2024, the Magistrate Judge issued a Report recommending that Defendant Warden Janson be dismissed from this action and that Plaintiff's claims pursuant to 42 U.S.C. § 1983 and *Bivens* be dismissed.¹ ECF No. 27. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has not filed objections to the Report and the time to do so has lapsed.

¹Service of process was authorized as to Defendant United States of America by separate order.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Defendant Warden Janson is **DISMISSED** without prejudice. Plaintiff’s § 1983 and *Bivens* claims are **DISMISSED** without prejudice. Plaintiff’s Federal Tort Claims Act claims remain pending against Defendant United States of America.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

October 29, 2024
Spartanburg, South Carolina